

## **SNOHOMISH COUNTY Charter Review Commission**

**Wednesday July 12, 2006  
First Floor Meeting Room  
County Administration Building East  
Everett, WA**

**Commission Members Present:** Gail Rauch, David Simpson, Jim Kenny, Eric Earling, Wendy Valentine, Diane Symms, Rick Ortiz, Mark Bond, Christine Malone, Kim Halvorson, Mike Cooper, Kristin Kelly, and Barbara Cothorn Hawksford.

**Commission Members Excused:** Rene Radcliff Sinclair, and Ryan Larsen.

**Staff Present:** Steve Reinig, Rich Davis, and Allena Olson

**Others in Attendance:** Evelyn Spencer, Beryl Neff, Al Lansing, Grant Saylor, Ellen Saylor, Geri Modrell, Paul Blowers, John Chelminiak, Millie Judge, and Christine Wakefield Nichols

**Approval of Agenda:** ACTION: Commissioner Earling made a motion to add the topic of an ombudsman to the issue debate, to come after the topic of issue #56, Continuity of Government. Commissioner Simpson seconded the motion and all commission members present unanimously approved it.

**Approval of Minutes:** Commissioner Kenny submitted his changes in writing and those changes were made. Commissioner Ortiz made a correction to paragraph 8; page 1.

ACTION: Commissioner Earling made a motion to approve the minutes as corrected. Commissioner Kenny seconded the motion and all commission members present unanimously approved it.

**Approval of Vouchers:** ACTION: Commissioner Simpson made a motion to approve the vouchers submitted, totaling \$4181.99. Commissioner Earling seconded the motion and all commission members present unanimously approved it.

**Public Comment:** Christine Wakefield Nichols spoke on the issue of eminent domain. She stated she feels that the ability for the current use of eminent domain is very broad. Ms. Nichols spoke of a current situation where the County is using eminent domain to take private property and turn it into a drainage pond. She also spoke of a situation where the County has proposed to seize a small hotel, and being the owner of such an establishment she was very concerned at their ability to do that. Ms. Nichols stated she felt the County should only be able to use the law of eminent domain for such things as roads and other public use items, not for a drainage pond to cover their mistake of

allowing too much development. Ms. Nichols stated she feels the issue of eminent domain is an important enough issue to be dealt with by the Charter Review Commission.

Mr. John Chelminiak spoke on the issue of transparency of government. He handed out packets illustrating the information available and the ways in which to obtain such information. Mr. Chelminiak stated that the legislative branch is the most transparent branch of government. He stated that the public might attend all meetings held. He stated that there is information on how each individual voted, and that information is available to any one who wishes to obtain it. Mr. Chelminiak stated that if the Commission made the decision to have all legislation passed by ordinance it would be an inefficient use of government powers and time. He continued by saying that if all legislation had to be passed by ordinance there would be around half a million dollars in advertising costs, and that he doesn't believe that more of the public would show than do now. Mr. Chelminiak encouraged the Commission to take "by ordinance" out of the proposed language to be put forth to the voters on the topic of transparency of government.

Commissioner Valentine inquired of Mr. Chelminiak why, if the votes of the Council are so readily available, could she not obtain them when she inquired.

Mr. Chelminiak apologized and stated that he was unsure why at that particular time Commissioner Valentine was not able to get that information, but assured her that it was available to the public.

Commissioner Valentine posed the question when, if she worked nine to five in Seattle, would she be able to attend meetings of the County Council.

Mr. Chelminiak replied that the Council does hold evening meetings when it is felt that the topic discussed is especially important to the public. He stated last year the Council held eight evening meetings, and there have been six already this year.

Commissioner Halvorson asked Mr. Chelminiak how people who did not have access to a computer, or the internet, would receive notification of meetings and topics before the council.

Mr. Chelminiak stated that such things are noted in the Herald, but that many more people have access to the internet than subscribe to a paper. He noted that it is more difficult to obtain this information with out electronic assistance, but there are ways.

Commissioner Kelly asked Mr. Chelminiak why, if everything was so transparent, does this not apply to all council meetings.

Mr. Chelminiak stated this decision is left to the council chair, but he didn't feel there would be any problem opening all meetings to the public. He stated that he doubted any of the public would come to many of them.

Chair Cooper asked if it was in the rules of procedure, or adopted by ordinance to not have the votes of council published on the web.

Mr. Chelminiak stated it was simply an administrative decision.

Ms. Millie Judge, from the office of the prosecuting attorney, spoke on the topic of allowing hearing examiner appeals to go straight to the Superior Court. She stated that land use has become more complex. Ms. Judge stated that in an attempt to streamline things in 2002 the Unified Development Code was created to be the one place for people to find what kind of permits, uses, and appeals processes are available. Now the question is whether there should be a different appeals process. Ms. Judge stated if the council isn't there as the last defense of the county it puts a lot more pressure on the hearing examiner. Having the council be the next step of the appeals process allows the county an opportunity to correct any mistakes they might have made. Ms. Judge stated she believes that by pushing issue #35 forward the commission would be putting the public at a disadvantage.

Ms. Ellen Saylor stated that she had come to this meeting because of a specific letter to the editor on the topic of eminent domain, but that she was speaking to the Commission to address another concern. Ms. Saylor stated when she tried to learn of the time and place of the Commission meeting she was unable to obtain that information from anyone at either Courthouse. She stated that she and her husband do not have access to the internet but she doesn't think that should put them at such a disadvantage when it comes to finding out information on the goings on of her local government.

Chair Cooper apologized to Ms. Saylor and stated he would speak to staff immediately on the issue and get it cleared up as soon as possible.

Mr. Albert Lansing spoke on the issue of eminent domain. Mr. Lansing stated he currently occupies the residence that the County is wishing to condemn for the use of the drainage pond that Ms. Nichols had referred to earlier. He is concerned that the county is looking to obtain his property for this project when the lot adjacent to his happens to be vacant. On other issues Mr. Lansing feels that allowing developers to be on the planning commission presents a conflict of interest and he is also concerned with the new developments where the houses take up over 60% of the property.

**Chairs Comments:** Chair Cooper stated that Commissioner Earling was currently working with Rich and Steve on writing ballot titles and if you wished to participate to contact Commissioner Earling.

Chair Cooper also asked the Commission to be thinking about who might want to participate in the writing of the voters' information pamphlets pro/con statements.

Chair Cooper stated he would also like to address the topic of new business, and that with only a few meetings left the Commissioners should be aware of the time frame available to work with any new business.

Commissioner Earling asked Chair Cooper to address the topic of the Commission's last meeting.

Chair Cooper stated that while by law the Commission could hold their last meeting on Wednesday August 2, the County Council asked that they have everything wrapped up before then because of scheduling conflicts. Chair Cooper stated if it were necessary the Commission could call a special meeting at some point before August 2 to wrap up any loose ends.

**New Business:** ACTION: Commissioner Kelly made a motion for this meeting to be the last night to bring up new issues for discussion. Commission Hawksford seconded the motion.

Commissioner Kenny stated he felt they should stick with the original plan to allow new business to be raised at this meeting as well as the next, one reason being that there were two Commissioners absent from this meeting and that would allow them one last chance to bring up any business they felt pertinent.

Commissioner Simpson stated that he agreed with Commissioner Kenny.

ACTION: The Commissioners voted on the motion and the motion failed.

ACTION: Commissioner Symms made a motion to bring issue #39 on eminent domain protection, back to the table. Commissioner Bond seconded the motion.

Commissioner Symms stated this issue is important to the people of this County, and this same issue is being discussed in many other Counties as well. She stated she feels that eminent domain should only be allowed if it is a public project, and that our County's current charter has no such protection within it. She stated that this motion would give staff and legal counsel the opportunity to gather more information and create legal language for the issue of eminent domain.

Commissioner Kenny stated that he is opposed to this motion. He stated that it has been brought up repeatedly and failed the same number of times. He stated several dates on which this motion had been made and reiterated his comments of last week, stating that Prosecutor Ellis spoke to the Commission and stated that this was not a problem in Washington because the State Constitution provided greater protections for private property than the Federal Constitution.

Commissioner Valentine asked Commissioner Symms if she were anticipating different language than what the State Constitution held.

Commissioner Symms stated the language was very similar.

Commissioner Valentine stated she was grappling with the concerns, but would they just be reiterating what the State Constitution already states.

Commissioner Symms stated the difference between the two would be that the County's would read that the government would only be allowed to take what they need, not the entire property.

Commissioner Halvorson stated she felt the State's language is broad, and that this is needed to tighten things up to protect the citizens.

Commissioner Kelly stated she was opposed to the motion. She stated what is currently happening has nothing to do with eminent domain, and that people are confusing the issue. She feels that to push this forward would simply prove to confuse the voters.

Commissioner Bond stated he was in favor of the motion. He stated that while it would not fix everything he felt that they would be heading in the right direction. Commissioner Bond stated this is an important enough issue to not matter if there is redundancy.

Commissioner Ortiz stated he was in favor of the motion. That it is a heartfelt issue and at this level there is the option to stop and cut it all out or let the voters decide.

Commissioner Hawksford stated she was opposed to the motion. She stated any wording in the Charter would be redundant, and there would be nothing they could do to clarify it for people.

Commissioner Kelly stated she felt if the language were changed in the Charter it would put the entire Charter at risk for lawsuits.

Commissioner Earling stated he was in favor of the motion. He stated he felt that the topic was worth researching, and that the attorney would write language as to not contradict state law.

There was no further debate. A voice vote was taken and the motion failed.

**Issue Debate:** Issue #56, Continuity of Government. Steve presented a briefing paper on this issue. The current status of the Snohomish County Code 2.34 describes Emergency Management and Continuity of County Government. This along with RCW 42.14 both refers to and defines an "attack". It does not address pandemic flues or other natural disasters. King County has a similar code. The options of the Commission are to 1. Not change the current wording; 2. Direct attorney to draft changes based on known potential conflicts in the Charter; 3. Commission may strongly advise the county to

undergo a thorough planning process and then have the County Council place Charter amendments on the ballot in a future year.

Chair Cooper stated the Commission could discuss this issue until November and have a ballot measure next year, but getting something on there this year is unlikely. There are a lot of issues to worry about with this topic, and too many questions to answer. Chair Cooper recommended that the Commission draft a separate letter with Rich to the Executive and the Council to put on a ballot measure when the work necessary is complete.

**ACTION:** Commissioner Earling made a motion to accept the Chair's recommendation. Commissioner Symms seconded the motion and discussion on the motion commenced.

Commissioner Kelly asked what would happen if something happens between then and now.

Commissioner Bond stated while it was true that something could happen during that time, it was probably a safe bet that the Council could make it another twelve months.

**ACTION:** There was no further discussion on the issue, and a vote was taken. The Commission unanimously approved the motion to accept the Chair's recommendation.

Issue of the Ombudsman. A briefing paper on this issue was presented at an earlier date.

**ACTION:** Commissioner Earling made a motion to include in the transmittal letter to the County Council that the Commission strongly recommends the creation of an office of an Ombudsman, or some similar such office, where the public will have easier access to lodge a complaint about County government.

Commissioner Bond asked Commissioner Earling to restate his motion.

Commissioner Valentine stated she felt that either an office of an ombudsman, or some other such position would be fine as long as there was something available to the public.

Commissioner Malone asked if they were to vote against this motion would the issue of an ombudsman fail completely.

Chair Cooper stated it could be re-raised in next week's new business section.

Commissioner Malone stated she is concerned that the language in the motion is too vague.

Commissioner Bond stated he is opposed to the motion, that it is a feel good motion and that they heard no argument that it would be necessary.

Commissioner Kenny stated he is in favor of an ombudsman, but as he mentioned in the discussion of this topic last week, he is concerned about the cost.

Commissioner Earling stated he would entertain any amendments to the motion, and that the language can be tweaked.

ACTION: Commissioner Symms made a motion to amend the original motion, removing the specific “ombudsman” portion. Commissioner Rauch seconded the motion.

Commissioner Hawksford stated she did not want to lose the meaning of what this position is for and the sense of advocacy that an ombudsman represented.

Commissioner Symms replied that she did not want to eliminate the importance of the issue, just the wording of “ombudsman”.

Commissioner Earling stated he was against the amendment. He stated he did not want to drop “ombudsman” and risk losing direction, but an alternative would be to include cost effective language in the letter also.

Commissioner Halvorson stated she concurred with Commissioner Symms, that there should be language about accountability. That the Council should not be allowed to simply pass the buck.

Commissioner Valentine stated she believes the term ombudsman is clear, and the term and the concept should remain in the language.

Commissioner Bond stated he was opposed to the amendment. He stated the argument that complaints are dealt with has not been made.

Chair Cooper stated he was opposed to the amendment, that the language presents the importance of the issue and the motion gives appropriate leeway for the construction of the transmittal letter.

There was no further discussion on the amendment. A voice vote was taken and the amendment failed.

There was no further discussion on the original motion. A vote was taken and the motion passed 10 to 3. The individual votes are listed below.

Halvorson – aye	Rauch – aye
Simpson – aye	Symms – nay
Malone – nay	Cooper – aye
Earling – aye	Bond – nay
Hawksford – aye	Kenny – aye
Kelly – aye	Valentine – aye
Ortiz – aye	

Issue #35, Appeals of the Hearing Examiner go directly to Superior Court. A briefing paper on this issue was presented at an earlier date, however a cover memo updating the Commission was presented.

Commissioner Kelly read information she had put together in the form of a hand out, that hand out is attached.

ACTION: Commissioner Kelly made a motion to insert new language into the county charter that would direct the county to make all type two land use hearing examiner appeals go directly to Superior Court.

The motion died for lack of a second.

ACTION: Commissioner Kelly made a motion to insert new language into the county charter that would direct the county to make all type two land use appeals, where both parties were in agreement, go directly to Superior Court. Commissioner Hawksford seconded the motion, and discussion on the motion commenced.

Commissioner Halvorson stated she has great respect for Commissioner Kelly for all her hard work and research. She also stated she had talked with people who have gone through this process and she found that the majority are ok with the process. Commissioner Halvorson continued stating she had talked with members of council and that had said they eat, sleep and breathe land use and so they are well versed in the law regarding it.

Commissioner Hawksford stated she felt if both parties agreed there is no reason to not allow them to do this.

Commissioner Bond stated he concurred with Commissioner Hawksford.

Commissioner Earling stated he opposed the motion. He stated he doesn't believe that the testimony they heard from the office of the prosecuting attorney agrees with the information presented by Commissioner Kelly and he feels that this would be inappropriate.

Commissioner Kenny stated he did not feel that this is a charter issue.

There was no further debate on this issue. A vote was taken and the motion failed 4 to 9, the individual votes are as follows:

Halvorson – nay	Rauch – nay
Simpson – nay	Symms – nay
Malone – nay	Cooper – aye
Earling – nay	Bond – nay
Hawksford – aye	Kenny – nay

Kelly – aye  
Ortiz – nay

Valentine – aye

**Ballot Language:** Chair Cooper stated that he hoped that final ballot language on a few of the issues could be chosen tonight so the Commission could move forward.

**ACTION:** Commissioner Earling made a motion to extend the meeting until 8:45. Commissioner Valentine seconded the motion and all commission members present unanimously approved it.

Chair Cooper reminded the Commission that the final ballot title has to be approved by the prosecuting attorney.

**BIENNIAL BUDGET** – Commissioner Earling stated a change he would like to the ballot language is in section 6.20 he would like to have it stated that there would be 75 days for the annual budget and 100 days for biennial.

Rich stated in doing this they must be clear so the two don't conflict.

Commissioner Hawksford asked if this language would have any real change on the process of government.

Chair Cooper stated in home rule counties they have to have this change otherwise it was not possible to have a biennial budget.

**ACTION:** Commissioner Earling made a motion to accept the ballot language as amended. Commissioners Rauch and Simpson seconded the motion, and discussion on the motion commenced.

Commissioner Kenny stated that he was opposed to the motion. He stated that he preferred that the county stay with annual budgeting. He continued, stating that the county has full-time councilmembers and staff and that they have the time and should look at the budget on an annual basis, to make sure our tax dollars are being used wisely.

**ACTION:** There was no further discussion on the motion. A vote was taken and the motion passed.

A vote was taken and the motion passed 10 to 3, the individual votes are as follows:

Halvorson – aye  
Simpson – aye  
Malone – aye  
Earling – aye  
Hawksford – aye  
Kelly – aye

Rauch – aye  
Symms – nay  
Cooper – aye  
Bond – aye  
Kenny – nay  
Valentine – nay

Ortiz – aye

**VETO – ACTION:** Commissioner Earling made a motion to accept the proposed ballot language for the Executive veto. Commissioner Rauch seconded the motion, and discussion on the issue commenced.

Commissioner Kenny stated that the wording reads the County executive may “object” in part of the language but in the first statement it reads “veto”. He asked if this wording was consistent with the state’s constitution or if the word “veto” throughout might be more appropriate.

Rich stated that it was taken almost verbatim, but that having “veto” throughout maybe more appropriate.

Commissioner Earling stated he was open to a friendly amendment to fix this issue.

Chair Cooper stated this was a grammatical fix and that a motion was not needed.

Commissioner Kenny stated he felt that the Charter’s current veto provision was not a problem and he is concerned that this will give the executive more power. He stated his main concern with this is the balance of power between the council and the executive.

Commissioner Earling stated that while the executive may be the originator of the legislation that does not mean that it’s not amended.

Chair Cooper reminded the Commission the Executive had said if he had the power for sectional veto that only 1 piece of legislation would have been vetoed instead of the four he had.

**ACTION.** A vote was taken and the motion failed 9-4, the individual votes are as follows:

Halvorson – aye	Rauch – aye
Simpson – aye	Symms – aye
Malone – aye	Cooper – aye
Earling – aye	Bond – nay
Hawksford – aye	Kenny – nay
Kelly – aye	Valentine – nay
Ortiz – nay	

**SALARY COMMISSION** – Commissioner Kenny stated his concern over the lack of information in the ballot language concerning how long the commission would meet;

whether they would be compensated for mileage; and the definition of “public employee”.

Chair Cooper stated he thought that it would be the enabling ordinance that spelled out those issues.

Commissioner Kenny stated he feels that this is a political “hot potato” and the council might like to have the commission spell out the details.

ACTION: Commissioner Halvorson made a motion that Commissioner Kenny, the Chair and Vice Chair should clean up the language to deal with the issues mentioned and come back to present the amended language to the Commission. Commissioner Bond seconded the motion, and discussion on the motion commenced.

Rich stated the challenge in doing this is synthesizing with what the Commission wants.

ACTION: Commissioner Halvorson withdrew her motion.

Chair Cooper stated there is the option of modeling this after the existing ordinance.

Commissioner Rauch stated it is important that the term, frequency, compensation and definition of “public employee” be put in the ordinance.

ACTION: Commissioner Earling made a motion to accept proposition 1 with existing ordinance language to clarify the definition of “public employee” in addition to this language. Commissioner Ortiz seconded the motion, and discussion on the motion commenced.

Commissioner Earling stated the core purpose is to make the salary commission independent.

ACTION: Commissioner Ortiz made a motion to extend the meeting until 9:05 p.m. Commissioner Malone seconded the motion and all commission members present unanimously approved it.

Chair Cooper stated the issue of the definition is covered in the ordinance, as well as the facts that the commission is comprised of 7 members, they are volunteers, they meet every two years, and they are reappointed every two years.

Commissioner Hawksford stated she was in favor of Commissioner Earling’s motion.

There was no more discussion on the motion. A vote was taken and the motion passed. ACTION. A vote was taken and the motion failed 13-0, the individual votes are as follows:

Halvorson – aye  
Simpson – aye  
Malone – aye  
Earling – aye  
Hawksford – aye  
Kelly – aye  
Ortiz – aye

Rauch – aye  
Symms – aye  
Cooper – aye  
Bond – aye  
Kenny – aye  
Valentine – aye

**Adjournment:** The meeting was adjourned at 9:04 p.m.

**Minutes Submitted by:**  
Allena Olson  
Recorder